

**S.B. Asphalt, LLC
Cumberland County
Scarborough, Maine
A-972-71-A-T**

**Departmental
Findings of Fact and Order
Air Emission License
Transfer**

After review of the file and related materials submitted with regard to the above noted application, pursuant to Title 38, M.R.S.A., Section 590 and Chapter 2 of the Department Regulations, the Department finds the following facts:

I. Registration

A. S.B. Asphalt, LLC has requested a partial transfer of equipment listed in Air Emission License A-455-71-J-R from Commercial Paving Co., Inc. to S.B. Asphalt, LLC through a letter to the Bureau of Air Quality dated May 8, 2007. Air Emission License A-455-71-J-R was issued to Commercial Paving Co., Inc. on August 17, 2006.

B. Emission Equipment

The following equipment is being transferred to S.B. Asphalt, LLC.:

Asphalt Plant

Equipment	Process Rate (tons/hour)	Design Capacity Firing Rate	Control Devices	Stack #	Date of Manufacture
Batch mix asphalt plant	100	43.5 MMBtu/hr, 0.7% #2 fuel oil or spec. waste oil	Baghouse	1	1988

Heating Equipment

Equipment	Maximum Capacity	Fuel Type, % sulfur	Maximum Firing Rate
H-14 Hot Oil Heater	2.1 MMBtu/hr	#2 fuel oil, 0.3%	15 gal/hr

II. Transfer Requirements

A. Title, Right, or Interest

In their application, S.B. Asphalt, LLC submitted an excerpted copy of the Asset Acquisition Agreement. Therefore, the parties have provided sufficient evidence of title, right, or interest in the facility to allow the transfer of the facility's equipment.

B. Financial Capacity and Intent

S.B. Asphalt, LLC states that they possess the financial capacity to operate the facility in compliance with its air emission license.

C. Technical Capacity and Intent

S.B. Asphalt, LLC plans to hire individuals to operate the asphalt plant with extensive experience in the industry and, where necessary, hire qualified consultants for any necessary additional assistance. The information submitted in the application provides sufficient evidence that S.B. Asphalt, LLC has the technical capacity and intent to comply with their air emission license.

D. Full Name and Address

The full name and address of the new owner is:

S.B Asphalt, LLC
511 Main St., P.O. Box 69
Gorham, ME 04038

E. Certification

S.B. Asphalt, LLC certifies that there will be no increase in air emissions beyond that provided for in the existing licenses, either in quantity or type.

F. Facility Emissions

S.B. Asphalt, LLC shall be restricted to the following annual emissions, based on a 12 month rolling total:

Total Licensed Annual Emissions for the Facility
(used to calculate the annual license fee)

	PM	PM₁₀	SO₂	NO_x	CO	VOC
Asphalt Plant	1.3	1.3	9.9	3.9	12.9	0.5
Oil Heater	0.4	0.4	1.1	1.1	0.1	0.1
Total TPY	1.7	1.7	11.0	5.0	13.0	0.6

ORDER

Based on the above, the Department concludes that the applicant for the air emission license transfer has the capacity to satisfy all applicable statutory criteria and hereby APPROVES the transfer of the equipment listed in Section I.B above from Commercial Paving Co., Inc. to S.B. Asphalt, LLC, subject to the following Conditions:

STANDARD CONDITIONS

- (1) Employees and authorized representatives of the Department shall be allowed access to the licensee's premises during business hours, or any time during which any emissions units are in operation, and at such other times as the Department deems necessary for the purpose of performing tests, collecting samples, conducting inspections, or examining and copying records relating to emissions. [MEDEP Chapter 115]
- (2) The licensee shall acquire a new or amended air emission license prior to commencing construction of a modification, unless specifically provided for in Chapter 115. [MEDEP Chapter 115]
- (3) Approval to construct shall become invalid if the source has not commenced construction within eighteen (18) months after receipt of such approval or if construction is discontinued for a period of eighteen (18) months or more. The Department may extend this time period upon a satisfactory showing that an extension is justified, but may condition such extension upon a review of either

the control technology analysis or the ambient air quality standards analysis, or both. [MEDEP Chapter 115]

- (4) The licensee shall establish and maintain a continuing program of best management practices for suppression of fugitive particulate matter during any period of construction, reconstruction, or operation which may result in fugitive dust, and shall submit a description of the program to the Department upon request. [MEDEP Chapter 115]
- (5) The licensee shall pay the annual air emission license fee to the Department, calculated pursuant to Title 38 M.R.S.A. § 353. [MEDEP Chapter 115]
- (6) The license does not convey any property rights of any sort, or any exclusive privilege. [MEDEP Chapter 115]
- (7) The licensee shall maintain and operate all emission units and air pollution systems required by the air emission license in a manner consistent with good air pollution control practice for minimizing emissions. [MEDEP Chapter 115]
- (8) The licensee shall maintain sufficient records to accurately document compliance with emission standards and license conditions and shall maintain such records for a minimum of six (6) years. The records shall be submitted to the Department upon written request. [MEDEP Chapter 115]
- (9) The licensee shall comply with all terms and conditions of the air emission license. The filing of an appeal by the licensee, the notification of planned changes or anticipated noncompliance by the licensee, or the filing of an application by the licensee for a renewal of a license or amendment shall not stay any condition of the license. [MEDEP Chapter 115]
- (10) The licensee may not use as a defense in an enforcement action that the disruption, cessation, or reduction of licensed operations would have been necessary in order to maintain compliance with the conditions of the air emission license. [MEDEP Chapter 115]
- (11) In accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 or other method approved or required by the Department, the licensee shall:
 - A. perform stack testing to demonstrate compliance with the applicable emission standards under circumstances representative of the facility's normal process and operating conditions:
 1. within sixty (60) calendar days of receipt of a notification to test from the Department or EPA, if visible emissions, equipment operating parameters,

staff inspection, air monitoring or other cause indicate to the Department that equipment may be operating out of compliance with emission standards or license conditions; or

2. pursuant to any other requirement of this license to perform stack testing.
- B. install or make provisions to install test ports that meet the criteria of 40 CFR Part 60, Appendix A, and test platforms, if necessary, and other accommodations necessary to allow emission testing; and
- C. submit a written report to the Department within thirty (30) days from date of test completion.

[MEDEP Chapter 115]

- (12) If the results of a stack test performed under circumstances representative of the facility's normal process and operating conditions indicate emissions in excess of the applicable standards, then:
 - A. within thirty (30) days following receipt of such test results, the licensee shall re-test the non-complying emission source under circumstances representative of the facility's normal process and operating conditions and in accordance with the Department's air emission compliance test protocol and 40 CFR Part 60 or other method approved or required by the Department; and
 - B. the days of violation shall be presumed to include the date of stack test and each and every day of operation thereafter until compliance is demonstrated under normal and representative process and operating conditions, except to the extent that the facility can prove to the satisfaction of the Department that there were intervening days during which no violation occurred or that the violation was not continuing in nature; and
 - C. the licensee may, upon the approval of the Department following the successful demonstration of compliance at alternative load conditions, operate under such alternative load conditions on an interim basis prior to a demonstration of compliance under normal and representative process and operating conditions.

[MEDEP Chapter 115]

- (13) Notwithstanding any other provisions in the State Implementation Plan approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or Part 70 license requirement. [MEDEP Chapter 115]
- (14) The licensee shall maintain records of malfunctions, failures, downtime, and any other similar change in operation of air pollution control systems or the emissions unit itself that would affect emission and that is not consistent with the terms and conditions of the air emission license. The licensee shall notify the Department within two (2) days or the next state working day, whichever is later, of such occasions where such changes result in an increase of emissions. The licensee

shall report all excess emissions in the units of the applicable emission limitation. [MEDEP Chapter 115]

- (15) Upon written request from the Department, the licensee shall establish and maintain such records, make such reports, install, use and maintain such monitoring equipment, sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such a manner as the Department shall prescribe), and provide other information as the Department may reasonably require to determine the licensee's compliance status. [MEDEP Chapter 115]

SPECIFIC CONDITIONS

(16) **Asphalt Plant**

- A. Emissions from the asphalt batch plant shall vent to an H&B style baghouse particulate control system, and all components of the asphalt batch plant shall be maintained so as to prevent PM leaks. [MEDEP Chapter 115, BPT]
- B. S.B. Asphalt, LLC shall utilize their maintenance, inspection and repair system for the asphalt batch plant baghouse, which allows for periodic inspection of the system. S.B. Asphalt, LLC shall document compliance by means of a maintenance, inspection and repair log in which S.B. Asphalt, LLC records the date of all bag failures and all routine maintenance as well as all inspection dates and findings. [MEDEP Chapter 115, BPT]
- C. Visible Emissions for the Asphalt Batch Plant baghouse are limited to no greater than 20% opacity on a 6-minute block average, except for no more than two 6-minute block averages in a continuous 3-hour period. [MEDEP Chapter 101]
- D. Fugitive particulate matter emissions from the asphalt batch plant operation shall be controlled so as to prevent visible emissions in excess of 10% opacity except for one 6-minute block average in any continuous 1-hour period. [MEDEP Chapter 101]
- E. The performance of the baghouse shall be constantly monitored by either of the following at all times the batch plant is in operation:
 - 1. PM Detector – when the detector signals excessive PM concentrations in the exhaust stream, S.B. Asphalt, LLC shall take corrective action within 24 hours, or immediately if opacity exceeds 20% based on a 6-minute block average basis.

2. Personnel with a current EPA Method 9 visible emissions certification – when the opacity exceeds 20%, the hot mix asphalt batch plant is operating with insufficient control and S.B. Asphalt, LLC shall take corrective action immediately.

[MEDEP Chapter 115, BPT]

- F. Total fuel use in the asphalt batch plant shall not exceed 200,000 gallons per year of a combination of #2 fuel oil and specification waste oil based on a calendar year basis. [MEDEP Chapter 115, BPT]
- G. The sulfur content of the specification waste oil fired in the asphalt batch plant shall be no greater than 0.7% sulfur by weight. [MEDEP Chapter 115, BPT]
- H. S.B. Asphalt, LLC shall maintain a fuel use record which shall include fuel receipts showing the quantity of fuel delivered and certification demonstrating the sulfur content of the specification waste oil. The fuel use record shall be maintained on a monthly and calendar year basis.
[MEDEP Chapter 115, BPT]
- I. Emissions from the asphalt batch plant shall not exceed the following:

Equipment		PM	PM ₁₀	SO ₂	NO _x	CO	VOC
Asphalt	Grs/dscf	0.03	-	-	-	-	-
Batch Plant	lb/hr	4.10	4.10	30.67	12.00	40.00	1.50

[MEDEP Chapter 115, BPT]

- J. S.B. Asphalt, LLC shall not process more than 10,000 cubic yards of petroleum contaminated soils per year in the asphalt plant without prior approval from the Department. [MEDEP Chapter 115, BPT]
- K. S.B. Asphalt, LLC shall only process soils contaminated with gasoline and/or #2 fuel oil in the asphalt plant without prior approval from the Bureau of Air Quality. [MEDEP Chapter 115, BPT]
- L. When processing petroleum contaminated soils in the asphalt plant, S.B. Asphalt, LLC shall maintain records which specify the quantity and type of contaminant in the soil as well as the origin and characterization of the contaminated soil. In addition, when processing contaminated soil, S.B. Asphalt, LLC shall maintain records of processing temperature, asphalt feed rates and dryer throughput on an hourly basis. The material shall be handled in accordance with the requirements of the Bureau of Remediation and Waste Management. [MEDEP Chapter 115, BPT]

M. S.B. Asphalt, LLC shall not process soils which are classified as hazardous waste or which have unknown contaminants in the asphalt plant.
[MEDEP Chapter 115, BPT]

(17) Hot Oil Heater

A. Total fuel use for the Hot Oil Heater shall not exceed 50,000 gallons per calendar year of #2 fuel oil with a maximum sulfur content not to exceed 0.3% by weight. Compliance shall be based on fuel receipts from the supplier showing the quantity of fuel delivered and the percent sulfur of the fuel.
[MEDEP Chapter 115, BPT]

B. Emissions shall not exceed the following:

Equipment		PM	PM ₁₀	SO ₂	NO _x	CO	VOC
H-14 Hot Oil Heater	lb/hr	0.25	0.25	0.63	0.63	0.08	0.01

[MEDEP Chapter 115, BPT]

C. Visible emissions from Hot Oil Heater shall not exceed 20% on a 6-minute block average. [MEDEP Chapter 115, BPT]

(18) Stockpiles and Roadways

Visible emissions from a fugitive emission source shall not exceed an opacity of 20 percent, except for no more than five (5) minutes in any 1-hour period. Compliance shall be determined by an aggregate of the individual fifteen (15)-second opacity observations which exceed 20 percent in any one (1) hour.
[MEDEP Chapter 101]

(19) General Process Sources

Visible emissions from any general process source shall (including conveyor belts) not exceed an opacity of 10% on a six (6) minute block average basis, except for no more than one (1) six (6) minute block average in a 1-hour period.
[MEDEP Chapter 101 and Chapter 115, BPT]

(20) Equipment Relocation [MEDEP Chapter 115, BPT]

- A. S.B. Asphalt, LLC shall notify the Bureau of Air Quality, by a written notification at least 48 hours prior to relocation of any equipment carried on this license. The notification shall be sent to the address below or to a Department Regional Office:

Attn: Relocation Notice
Maine DEP
Bureau of Air Quality
17 State House Station
Augusta, ME 04333-0017

Equipment relocation notification can also be done on-line with e-notice at www.maine.gov/dep/air/compliance/forms/relocation.

The notification shall include the address of the equipment's new location, an identification of the equipment and the license number pertaining to the relocated equipment. Written notice may be sent by mail, facsimile (fax), or e-mail.

- B. Written notification shall also be made to the municipality where the equipment will be relocated, except in the case of an unorganized territory where notification will be made to the respective county commissioners.

- (21) S.B. Asphalt, LLC shall keep a copy of this Order on site, and have the operator(s) be familiar with the terms of this Order. [MEDEP Chapter 115, BPT]
- (22) S.B. Asphalt, LLC shall notify the Department within 48 hours and submit a report to the Department on a quarterly basis if a malfunction or breakdown in any component causes a violation of any emission standard (Title 38 MRSA §605-C).

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(23) Payment of Fees

S.B. Asphalt, LLC shall pay the annual air emission license fee within 30 days of May 31st of each year. Pursuant to 38 MRSA §353-A, failure to pay this annual fee in the stated timeframe is sufficient grounds for revocation of the license under 38 MRSA §341-D, subsection 3.

DONE AND DATED IN AUGUSTA, MAINE THIS DAY OF 2007.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
DAVID P. LITTELL, COMMISSIONER

The term of this license shall be five (5) years from the signature date above.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: 5/9/07
Date of application acceptance: 5/10/07

Date filed with the Board of Environmental Protection: _____

This Order prepared by Lynn Ross, Bureau of Air Quality.